

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

C/A#

Harry Halstead,)
)
Plaintiffs,)
)
Vs.) **COMPLAINT**
)
United States of America,)
)
Defendant.)
_____)

Mr. Halstead, complaining of the defendant herein, alleges:

1. That Mr. Halstead is a citizen and resident of Harnett County, State of North Carolina.
2. That this is an action arising under the Federal Tort Claims Act, 28 USCA §2671 et. seq. This court is vested with jurisdiction pursuant to §1334(b), Title 28 of the United States Code.
3. That the Defendant is the United States Government.
4. On or about Sunday, September 12, 2015, Mr. Halstead was the operator of a Harley Davidson motorcycle traveling northbound on US Hwy 701 near the City of Conway, County of Horry, State of South Carolina. On the same date, Carolyn M. Cole, an employee of the United States Post Office employed as a rural mail carrier, was operating her automobile while acting within the scope of her employment and delivering her mail to various locations along US Hwy 701 south of Conway, South Carolina.

5. At or about 14:00 hours, as Mr. Halstead was lawfully traveling on US Hwy 701 south of Conway, South Carolina, Defendant's United States Post Office employee failed to yield the right of way to Mr. Halstead's motorcycle as well as other motorcycles traveling in front of and behind Mr. Halstead's motorcycle, making contact with Mr. Halstead's motorcycle and others in the group and causing several of them to swerve to avoid colliding with Carolyn Cole's vehicle and other motorcyclists in the group. That as a result of the collision and evasive actions in attempts to avoid collision, Mr. Halstead spilled onto the roadway and sustained major and permanent injuries.

6. On July 21, 2017, Mr. Halstead submitted his claim to the US Postal Service, PO Box 929331, Columbia SC 29292-9331; that more than six (6) months have elapsed since the submission of the Mr. Halstead's claim. On April 10, 2018, Mr. Halstead submitted his first amended claim to the US Postal Service to increase the amount demanded; that more than six (6) months has not elapsed since the submission of the Mr. Halstead's first amended claim. Plaintiff has never received a final notice of denial of claim by the agency to which it was presented despite due demand by Plaintiff.

7. That Defendant, through its agent, servant and employee, was negligent, reckless, willful and wanton in one or more of the following particulars:

- a) In driving her vehicle into and against Mr. Halstead's motorcycle;
- b) In failing to keep a proper lookout;
- c) In failing to keep her vehicle under proper control;
- d) In failing to apply or timely apply breaks;
- e) In failing to take the last clear chance to avoid the collision;
- f) In failing to obey the traffic laws of the State of South Carolina;

- g) In failing to yield the right of way to Mr. Halstead's motorcycle;
 - h) In operating her vehicle in such a manner as to indicate either a willful or wanton disregard for the safety of persons, and particularly the Mr. Halstead; and
 - i) In other manners to be proved at trial;
8. In failing to use the degree of care and caution that a reasonable and prudent person would have used under the circumstances then and there prevailing; all of which directly and proximately caused Mr. Halstead to suffer serious and permanent injuries.
9. That as a direct and proximate result of the Carolyn Cole's negligence, recklessness, willfulness and wantonness Mr. Halstead suffered the following damages:
- a) Mr. Halstead was committed to the hospital and will be required to seek medical treatment in the future;
 - b) Mr. Halstead was confined to the care and treatment of skilled physicians and nurses; that Mr. Halstead is presently being treated by such persons and will continue to receive treatment from them in the future; that Mr. Halstead has expended large sums of money for such treatment and will be obligated to expend even more money in the future for such care and treatment;
 - c) Mr. Halstead was hindered and prevented, and in the future will be hindered and prevented from transacting and attending to his necessary and lawful affairs since the date of the collision and loss and was deprived of gains, profits, salaries, pleasures, advantages and earning capacity and ability which Mr. Halstead would have otherwise derived and acquired;
 - d) Mr. Halstead has in the past and present and will continue in the future to be put to great expense for medicine and drugs;

- e) Mr. Halstead has expended large sums of money in the past and present for transportation to and from the doctor's office and hospitals and will continue to have such expenses in the future for consultations and treatment;
- f) Mr. Halstead's previous good health has been permanently impaired; and
- g) Mr. Halstead has suffered a loss of wages and in the future will suffer a loss of wages due to the injuries received.

10. That Mr. Halstead is informed and believes that he is entitled to an award of actual damages.

WHEREFORE, Mr. Halstead requests judgment against the Defendant, the United States of America in the amount of \$10,001,701.62 actual damages and for such other and further relief as this court deems just and proper.

/s/ John D. Hudson

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